

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

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| UNITED STATES OF AMERICA, | : | |
| | : | Case No. 3:12CR116(9) |
| Plaintiff, | : | |
| | : | District Judge Thomas M. Rose |
| v. | : | Magistrate Judge Michael J. Newman |
| JUAN CANO, | : | |
| Defendant. | : | |

REPORT AND RECOMMENDATION¹

This case came on for hearing on Friday, April 12, 2013. The United States was represented by Assistant United States Attorney Andrew Hunt; Defendant was represented by Attorney Steven Rueckert; and Marina Camacho, a Spanish language interpreter, was also present. Defendant consented on the record that he understood the Spanish language interpreter, and had no language concerns. The case was referred to the undersigned under Fed. R. Crim. P. 59 for plea proceedings. Defendant, through counsel, orally consented to proceed before the United State Magistrate Judge for this hearing.

The undersigned examined Defendant under oath as to his understanding of the Plea Agreement and the effect of entering a plea pursuant to that Agreement. Having conducted that colloquy, the Magistrate Judge is persuaded that Defendant understands the rights waived by entering a guilty plea and is competent to do so. The Magistrate Judge also concludes that execution of the Plea Agreement, which was acknowledged in open court, is Defendant's

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

knowing, intelligent and voluntary act. It is therefore respectfully recommended that the Plea Agreement be accepted.

The Magistrate Judge concludes that Defendant's guilty plea to Count One of the First Superseding Indictment dated September 25, 2012 is knowing, intelligent and voluntary, and that the Statement of Facts made a part of the Plea Agreement, whose truth Defendant acknowledged, provides a sufficient factual basis for a guilty finding. It is therefore respectfully recommended that Defendant's guilty plea be accepted, and Defendant be found guilty as charged in Count One of the First Superseding Indictment.

Anticipating the District Court's adoption of this Report and Recommendation, the Magistrate Judge referred Defendant for a pre-sentence investigation, remanded him to the custody of the United States Marshal, and set sentencing for July 18, 2013, at 2:30 p.m. in Courtroom 2 of the Dayton Federal Courthouse before United States District Judge Thomas M. Rose.

April 17, 2013

s/Michael J. Newman
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Crim. P. 59 (b)(2), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B)(C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).